

THE EFFECTIVE DATE OF THIS ORDINANCE IS DECEMBER 29, 2006

ORDINANCE NO. 06-44-440

Re: Zoning Text Amendment ZT-06-06
Amendment to the MXD Provisions of the
Zoning Ordinance, Section 1-19-324(H)(2)

PREAMBLE

This zoning text amendment was filed by Toll Brothers, Inc. after it had identified a conflict between requirements relating to processing of Mixed Use Development (MXD) floating zone Phase II applications, contained in Frederick County Code, Section 1-19-324(H)(2), and the criteria contained in the Frederick County Water and Sewerage Plan (W&S Plan).

Section 1-19-324(H)(2) provides that in order to initiate Phase II of MXD floating zone process a property must have a classification of at least W-3, S-3 on the Water and Sewerage Plan.

The W&S Plan, however, requires that in order to be classified as W-3, S-3, the property must have a preliminary subdivision plan, site plan or Phase II plan approved by the Frederick County Planning Commission.

This results in an apparent conflict -- to initiate Phase II of the MXD process under Section 1-19-324(H)(2) the subject property must be classified W-3, S-3, yet under the W&S Plan, the property cannot be classified W-3, S-3 until a Phase II plan has been approved by the Frederick County Planning Commission.

A public hearing was held by the Frederick County Planning Commission on November 15, 2006, and the Planning Commission voted to approve the proposed text amendment.

The Board of County Commissioners held a public hearing on this proposal on December 19, 2006, at which time the public had an opportunity to comment on the proposal. The Board desires to resolve this apparent inconsistency between the W&S Plan and the Zoning Ordinance by amending Section 1-19-324(H)(2) to provide that property must be classified W-4, S-4 (rather than W-3, S-3) before initiation of Phase II of the MXD approval process.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Section 1-19-324(H)(2) of the Frederick County Code be amended as follows:

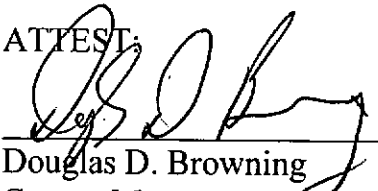
§1-19-324(H)(2)

(2) *Phase II: Execution Phase.* This guides the project through the customary subdivision and site plan process. Before applying for execution phase, the MXD site shall be classified at least [W-3, S-3] W-4, S-4 on the Frederick County Water and Sewerage Plan.

All other provisions of Section 1-19-324 shall remain unchanged.

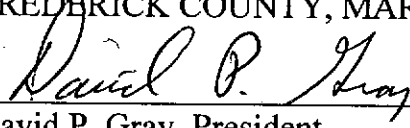
The undersigned hereby certify that this Ordinance was approved and adopted on the 19th day of December, 2006.

ATTEST:


Douglas D. Browning
County Manager

WLL 12/21/06

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

By: 
David P. Gray, President